

DCP:MJB:dlm

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAVID LEE WOMACK,	:	NO. 1:CV-06-2348
Plaintiff	:	
	:	(Conner, J.)
v.	:	
	:	
HARLEY LAPPIN, et al.,	:	
Defendants	:	Filed Electronically

**REPLY TO PLAINTIFF'S OPPOSITION TO MOTION
TO AMEND THE CASE MANAGEMENT ORDER**

Defendants respectfully reply to Plaintiff's opposition to the motion for a discovery deadline extension in the above-captioned matter. Plaintiff has misstated the procedural record in this case. Although Defendant sought leave to take Plaintiff's deposition in August of 2009, thereafter, there was a qualified immunity argument pending. Defendant could not as matter of law and this Court's order depose Plaintiff.

Between April 5, 2010, and May 7, 2010, Plaintiff has taken numerous depositions in this case, which required travel to Florida; Lewisburg, Pennsylvania;

and Washington, D.C.¹ These depositions required that the undersigned leave his office and home for long stretches of time and prevented him from preparing and scheduling an earlier deposition of Plaintiff. In addition, May 17, 2010, was a date that was set for Plaintiff's deposition because it gave time for the United States Marshal to move Plaintiff to USP Allenwood, and for the convenience of all parties.

The discovery deadline in this case is June 1, 2010. Plaintiff was set to be deposed on May 17, 2010. Thus, Plaintiff had until May 1, 2010, to request additional discovery. He did not. If Plaintiff wanted further discovery, he should have done so at that time. Plaintiff does not explain how he would have been allowed discovery between May 17 and June 1 under the Federal or Local Rules.

Most importantly, Plaintiff incorrectly states that he is being treated "to repair damage caused by his time in restraints." This is a conclusory statement. Plaintiff is being treated for some unknown ailment. If records reveal that Plaintiff is being treated for any injuries related to this case, Plaintiff should then petition the Court to take further depositions, etc. At this point, however, discovery about Plaintiff's medical procedure is unwarranted.

Accordingly, Defendants respectfully request that the Court amend its case management order by extending the deadlines by 30 days and discovery shall be

¹Plaintiff also scheduled depositions of BOP employees that were later canceled because Plaintiff did not believe the depositions necessary.

limited to Mr. Womack's deposition.

Date: May 11, 2010

Respectfully submitted

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s/Michael J. Butler
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion to be competent to serve papers.

That this 11th day of May, 2010, she served a copy of the attached

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by filing with the Court's ECF system.

Addressee:

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s/ Dawn Mayko

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